

## Quick Look:

### ***This document includes:***

Background Information, Terms to Understand, and Frequently Asked Questions about a proposed committee substitute to House Bill 1261 sponsored by the [State Affairs Committee](#), Chaired by [Representative McKeel](#).

## Terms to Know:

**Electorate:** Voting citizens

**Electoral Ballot:** The document given to voters during elections which lists their voting options and records their vote

**Joint Resolution:** The Legislature proposes constitutional amendments by passing a joint resolution. The primary difference between a bill and a joint resolution is that a joint resolution is not subject to executive approval and cannot be vetoed by the Governor.

## OPI Pulse: Ballot Reform

### Background

The Florida Constitution provides the framework for our state's government, grants rights to its citizens, and outlines the process by which amendments to the Constitution may be proposed and enacted. There are several ways to amend the Florida Constitution, one of which is through a Joint Resolution passed by the Legislature. Joint Resolutions proposing amendments to the Florida Constitution must be passed by a 3/5 vote of all members in the Florida House and Senate, respectively. After both chambers pass a Joint Resolution proposing a constitutional amendment, the amendment text and title, as well as a ballot summary of the amendment (if there is a ballot summary) as it will appear on the electoral ballot must be printed twice in newspapers throughout the state before the election. The proposed amendment can then be submitted to Floridians for a vote, usually at the next general election. The actual ballot given to voters on election day typically contains the amendment title and a summary of the amendment, which is called the "ballot summary." If 60 percent of the people who vote on the amendment vote "yes", the Florida Constitution is changed to reflect the amendment.

Floridians can take action in the form of a legal challenge to stop a proposed amendment from appearing on an electoral ballot if they believe the language used to identify and describe the amendment is inaccurate or misleading. This formal challenge is usually presented in a state court. When a challenge is filed, the court hears arguments from both sides and then makes a determination about whether the amendment, as it is titled and described in the ballot summary, can legally appear before Florida voters.

### Issue at a Glance

The House Judiciary Committee recently reported favorably with a committee substitute House Bill 1261, which establishes specific requirements for Joint Resolutions of the Legislature that propose amendments to the Florida Constitution. The bill also creates a process for handling legislative ballot summaries that are invalidated by the courts. Proponents of the bill assert the proposed measures are necessary due to the lack of a statutory process for addressing situations where the courts find legislative ballot summaries inaccurate or otherwise defective. Proponents express the following reasons for the proposed bill:

- Proponents argue that because there is no statutory process to address judicially invalidated ballot summaries, legislative amendments have been stricken from the ballot entirely during ballot language disputes. Proponents reference that four amendments in the last 10 years have been removed from the

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## Quick Facts:

While Joint Resolutions are a common way to change Florida's Constitution, there are four additional ways to amend the Constitution:

- Initiative petition
- Proposal by the Constitution Revision Commission
- Proposal by the Taxation and Budget Reform Commission
- Proposal by a Constitutional Convention

ballot prior to an election based on the court's finding of faulty ballot language.

- Proponents note that members of Florida's judiciary have asked the Legislature to formalize a ballot language process on at least seven occasions in judicial opinions issued since 1982.

## What the Bill Does

The proposed committee bill with committee substitute was voted favorably out of the Judiciary Committee on Thursday, April 14, 2011, and is now numbered CS/CS/HB 1261. The Bill was added to the second reading calendar on Friday, April 15, 2011. The bill:

- Requires Joint Resolutions proposing constitutional amendments to contain a ballot title consisting of a caption (of 15 words or less) that identifies the commonly used name or title of the amendment.
- Specifies that resolutions passed by the Legislature may include a primary ballot summary as well as potential alternate ballot summaries for the court to consider if the primary ballot summary is insufficient or otherwise defective, and requires ballot summaries to describe the chief purpose of the amendment in clear and unambiguous language.
- Restates the prerogative of the Legislature to place the full text of the proposed amendment on the ballot in lieu of a ballot summary. In these instances, if the text of the amendment indicates language being replaced or removed from the constitution, the text itself is presumed to be a clear and unambiguous statement that provides sufficient notice to the voters of the issue upon which they are voting.
- Requires any judicial action challenging placement of a legislatively proposed amendment on the ballot to commence within 30 days after the Joint Resolution is filed with the Secretary of State.
- Provides that if the ballot summary and alternative ballot summaries are found defective by the courts, the full text of the amendment must be placed on the ballot.
- Requires the Attorney General to rewrite an amendment's ballot summary if the Court finds the full text of the amendment cannot be placed on the ballot or if ballot technology is incompatible with putting the full text of the amendment on the ballot.

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- Requires legal challenges to ballot language proposed in a Joint Resolution be given priority over other cases on the court's docket, and the courts must render their decisions as soon as possible.

## Frequently Asked Questions: Ballot Reform

### ***How often is Florida's Constitution amended?***

The number of proposed Constitutional amendments varies from year to year. According to the Florida Constitutional Amendments Index, over the course of the last 20 years, 60 proposed amendments have been passed.

### ***Why do we even need ballot reform?***

Proponents assert ballot reform is necessary in order to help ensure voters have an opportunity to vote on amendments proposed by their elected representatives in the House and Senate. Since 1982, at least seven decisions issued by the Court contained opinions suggesting the Legislature provide a remedial process to address ballot summaries found defective by the courts.

### ***Why does the bill put time limits on the courts to challenge ballot language?***

Proponents assert it is essential that disputes over ballot language do not prevent valid constitutional amendments from appearing on the ballot in a timely manner. Proponents argue that placing time limits on challenging ballot titles or summaries for constitutional amendments proposed by the Legislature helps make certain that these cases are resolved in a timely manner and that the people have an opportunity to exercise their right to vote on constitutional amendments proposed by their elected representatives.

### ***Does the bill alter the manner in which courts review ballot language cases?***

No. The bill does not alter the manner in which courts review ballot titles or ballot summaries to determine accuracy. It also does not alter the 'implicit accuracy requirement' applied by the courts since the 2000 Armstrong decision.

### ***Does the bill alter methods for proposing constitutional amendments other than proposals from the Legislature?***

No. The bill does not alter the manner in which amendments are proposed by initiative petition, the Constitution Revision Commission, the Taxation and Budget Reform Commission, or a constitutional convention.

## Additional Resources:

[Florida Department of State](#)

[Florida Division of Elections](#)

[Florida Constitutional Amendments Index](#)

[Find Your Supervisor of Elections](#)

[Florida Courts](#)

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